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BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

10/7/2008



IN THE MATTER OF THE REVIEW)	Docket No. RT-00000H-97-0137
AND POSSIBLE REVISION OF)	
ARIZONA UNIVERSAL SERVICE)	
FUND RULES, ARTICLE 12 OF THE)	
ARIZONA ADMINISTRATIVE CODE)	
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IN THE MATTER OF THE)	Docket No. T-00000D-00-0672
INVESTIGATION OF THE COST OF)	
TELECOMMUNICATIONS ACCESS)	PROCEDURAL
)	RECOMMENDATIONS
)	

In compliance with the Procedural Order signed by Judge Rodda on August 20, 2008, tw telecom of arizona llc ("tw telecom") and XO Communications Services, Inc. ("XO") hereby file the following comments regarding the issues list and next steps in this proceeding. For the reasons stated below, XO and tw telecom will not be filing a matrix of issues today.

I. Federal Activity on Inter-Carrier Compensation and Universal Service

The Federal Communication Commission ("FCC") is under court mandate to, by November 5, 2008, provide a valid legal justification for the interim rules governing intercarrier compensation for telecommunication traffic bound for

internet service providers (ISPs). This deadline is not illusory or amenable to delay insofar as the FCC ISP Remand Order will be vacated if justification is not provided by this date by the FCC. *In re Core Communications, Inc.*, 531 F.3d 849 (D.C. Cir. July 8, 2008). This anticipated order will give carriers guidance on ISP bound compensation. Many industry participants also believe the order may address broad reform of intercarrier compensation and Universal Service funding. The order may well address which intercarrier compensation issues will be reserved to the states, and which issues will be governed exclusively by federal law. With this in mind, XO and tw telecom recommend that the procedural schedule in these dockets be held in abeyance for 60 days to allow all interested parties to review the FCC intercarrier compensation order. As a next step, the Commission could potentially set a filing deadline for party comments on the relevance or impact of the expected FCC order in Docket CC 96-98.

II. CLEC Access Rates and Rural LEC Access Rates Should Not be Considered in the Same Phase

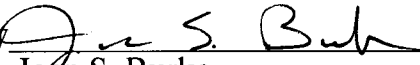
Qwest argues that Competitive Local Exchange Carrier (“CLEC”) rates should be examined and reduced during the initial phase of these dockets. This issue may be included on proposed matrices submitted by parties to these dockets. XO and tw telecom oppose discussion of CLEC access rates in this first phase of the proceeding. Examining CLEC access rates in the initial phase would ignore the fact that CLEC rates and Incumbent Local Exchange Carrier (“ILEC”) rates are predominantly supported by completely different rate structures. Rural LECs

and Qwest (both ILECs) serve captive customers and can file a rate proceeding with the Commission and adjust end user rates. Qwest is positioned to spread an access revenue loss to both captive (monopoly) and competitive customers.

CLECs are not similarly situated. With competitive pricing and no guaranteed rate of return CLEC access revenue reductions have a direct impact on retail rates and, consequently, on customers. To evaluate CLEC access rates in the same proceeding as Rural LEC rates would be arbitrary and capricious, especially in light of the significant distinctions between the two types of carriers. Should the Commission choose to construct an issues list or matrix for a workshop or for evidentiary hearings, CLEC access rates should be evaluated in a subsequent and separate phase.

RESPECTFULLY SUBMITTED this 17th day of October 2008.

OSBORN MALEDON, P.A.

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